

Two qualified persons and their authorized signatories prohibited by disciplinary board from certifying prescribed inspection and repair of windows for a period ranging from six months to permanently

The Registered Contractors' Disciplinary Board has completed three disciplinary inquiries under the Buildings Ordinance (BO) and decided that two Registered Minor Works Contractors (RMWC) appointed as qualified persons (QP) under the Mandatory Window Inspection Scheme (MWIS) and their Authorized Signatories (AS) should be disciplined for failing to discharge the duties or abide by the requirements imposed on a QP under the BO.

The Board's written decisions and orders issued on July 10 were published in the Gazette today (July 26). Details are available at the following links:

For the first and the second cases:

www.gld.gov.hk/egazette/pdf/20242830/egn202428304278.pdf

For the third case: www.gld.gov.hk/egazette/pdf/20242830/egn202428304279.pdf

The first and the second cases involve the same RMWC and its AS.

In the first case concerning a domestic flat in Ma On Shan, the RMWC and its AS submitted a certificate to the Buildings Department (BD) in July 2016, certifying that prescribed inspection and prescribed repair had been carried out to the windows of the flat. Subsequently, the BD carried out an investigation in response to a report from the owner and found that the prescribed inspection was not carried out personally by the RMWC and its AS.

The RMWC and its AS were later prosecuted, convicted and fined \$15,000 in total at the Shatin Magistrates' Courts in July 2019, pursuant to sections 40(2A)(c) and 40(2AD) of the BO, for knowingly misrepresenting a material fact in the certificate submitted to the BD and failing to carry out the prescribed inspection personally.

In the second case concerning a domestic flat in Wan Chai, the same RMWC and its AS submitted a certificate to the BD in June 2018, certifying that prescribed inspection had been carried out to the windows of the flat and that those windows were safe and no prescribed repair was required. Subsequently, the BD carried out an investigation in response to an emergency report of a fallen window from the flat concerned and found that rivets of some windows of the units were broken, missing or corroded. Based on the

investigation findings and having consulted the Department of Justice, the BD did not instigate prosecution action against the RMWC and the AS due to insufficient evidence.

In the third case, another RMWC and its AS submitted a certificate to the BD in December 2019, certifying that a prescribed inspection had been carried out to the windows of a domestic flat in Yau Ma Tei, and that those windows were safe and no prescribed repair was required. Subsequently, the BD conducted an audit inspection and found that signs of deterioration or defective window components were identified in some of the windows. Further investigation also revealed that the RMWC had failed to carry out the prescribed inspection for all the windows of the flat.

The RMWC and its AS were later prosecuted, convicted and fined \$16,000 in total at the Kwun Tong Magistrates' Courts in July 2021, pursuant to sections 40(2A)(c) and 40(2B)(b) of the BO, for knowingly misrepresenting a material fact in the certificate submitted to the BD and carrying out prescribed inspection in a manner likely to cause a risk of personal injury or property damage.

In view of the convictions or investigation results, the BD notified the Board for its consideration of disciplinary action against the two RMWC and their AS under the provisions of section 13(1) of the BO.

In the first case, the Board ordered the RMWC and its AS to be prohibited from certifying any prescribed inspection, or certifying or supervising any prescribed repair of windows, for eight months with effect from the date of the Gazette, and to pay a total of \$43,200, being the costs of the Board and the BD for conducting the inquiry.

In the second case, the Board ordered the RMWC to be prohibited from certifying any prescribed inspection, or certifying or supervising any prescribed repair of windows for 24 months with effect from the date of the Gazette, and the AS to be permanently prohibited from certifying any prescribed inspection, or certifying or supervising any prescribed repair of windows, both penalties to run concurrently with the order of the first case above. This is the first time the Board has ordered an AS to be permanently prohibited from certifying prescribed inspection and repair of windows. Furthermore, the RMWC and its AS have to pay a total of \$38,800, being the costs of the Board and the BD for conducting the inquiry

In the third case, the Board ordered the RMWC and its AS to be prohibited from certifying any prescribed inspection, or certifying or supervising any prescribed repair of windows, for six months with effect from the date of the Gazette, and to pay a total of \$42,100, being the costs of the Board and the BD for conducting the inquiry.

A spokesperson for the BD reiterated that in order to ensure building safety, the BD attaches great importance to the quality of the prescribed inspection and repair of windows by a QP under the MWIS. Any QP who contravenes the relevant provisions of the BO in carrying out the prescribed

inspection and repair of windows under the MWIS is not only liable to criminal prosecution but also disciplinary action under the B0.

The BD will continue to conduct audit inspections to ensure the quality of prescribed inspections and repairs under the MWIS, he added.